FILED JULY 25, 2012

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of **EUGENE MARTIN HANNON,** **Member No. 85632,** A Member of the State Bar.	Case No.: **10-O-05217-LMA** (11-O-14004) **DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT (Bus. & Prof. Code, § 6007, subd. (c)(4).)**

Introduction[1]

In this contested original disciplinary proceeding, respondent **EUGENE MARTIN HANNON** is charged with five counts of professional misconduct. For the reasons set forth *post*, the court finds that respondent is culpable on four of the five counts.

In light of the seriousness of respondent's misconduct, which includes the willful misappropriation of more than $28,000 in trust funds in two client matters and in light of respondent's failure to adequately appreciate the seriousness of his misconduct, the court concludes that only disbarment will adequately further the goals of attorney discipline notwithstanding the significant mitigating circumstances. Accordingly, the court will recommend that respondent be disbarred and that he be ordered to make restitution with interest for the misappropriated funds. Furthermore, in light of its disbarment recommendation, the court will also order that respondent be involuntarily enrolled as an inactive member of the State Bar

[1] Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code unless otherwise indicated.

of California pending the final disposition of this proceeding or further court order. (§ 6007, subd. (c)(4); Rules Proc. of State Bar, rule 5.111(D).)

Significant Procedural History

The Office of Chief Trial Counsel of the State Bar of California (State Bar) initiated this proceeding by filing a notice of disciplinary charges (NDC) on December 28, 2011. Respondent filed his response to the NDC on January 23, 2012. On April 30, 2012, the parties filed a detailed stipulation as to facts and admission of documents, in which respondent admits to misappropriating $27,500.66 in trust funds.

Trial was held on April 30, 2012, through May 2, 2012. The court took the matter under submission for decision on May 2, 2012.

Acting Senior Trial Counsel Erica L. M. Dennings represented the State Bar. Attorney William M. Balin represented respondent.

Findings of Fact and Conclusions of Law

This court's findings of fact are based on respondent's admissions in his response to the NDC; the parties' April 30, 2012 stipulation as to facts and admission of documents; and the evidence admitted at trial.

Respondent was admitted to the practice of law in California on May 31, 1979, and has been a member of the State Bar of California since that time.

Case Nos. 10-O-05217 & 11-O-14004

Findings of Facts

In October 2004, respondent represented Tyrone Barber who was the defendant and cross plaintiff in *Rose Magno v. Tyrone Barber*, case number RG 04149292, which was then pending in the Alameda County Superior Court. That case involved claims and cross claims arising from Magno and Barber's cohabitating together for about six years, from mid-1997 through mid-2003.

In October 2004, Magno and Barber entered into a stipulation for settlement of case number RG 04149292. Thereafter, the superior court dismissed the case with prejudice in December 2004.

The relevant portion of the parties' October 2004 settlement agreement required respondent's client Barber to deposit $45,000 into "an IRS 529 account" for the joint benefit of Barber's and Magno's three children, each of whom was a minor at the time. For various reasons, however, the terms of the October 2004 settlement agreement were not fulfilled.

In December 2006, Magno and Barber entered into and executed a "Revised Agreement for Settlement and Mutual Release." The relevant portion of the revised agreement required Barber to deposit a total of $55,000 into three blocked accounts for the three children (Barber was required to deposit $18,333.33 into a separate blocked account for each child). The terms of the December 2006 revised agreement were also not fulfilled.

In March 2007, in conjunction with Barber, Magno, and Attorney Paula Grohs, who represented Magno, respondent drafted yet another agreement. Specifically, respondent drafted a stipulation titled "Defendant's Attorney to Open Interest Bearing Trust Account for Deposit of Funds to Fund Settlement Agreement and Order Thereon" (March 2007 stipulation).

Respondent, Barber, Magno, and Attorney Grohs all signed the March 2007 stipulation, which was thereafter filed in case number RG 04149292 on April 16, 2007. And, on April 18, 2007, the superior court issued an order granting an application for an order approving the March 2007 stipulation.

The relevant portions of the March 2007 stipulation state:

> 1. [T]he parties hereto have … agreed that pending the establishment of a different and more formal trust/guardianship account for the three minor children…, [Tyrone Barber] shall deposit monthly installments in the amount of $9,166.66 to an interest bearing trust account in the [names] of Tyrone Barber and Rose Magno, Eugene M. Hannon, trustee, each

month commencing March, 2007 until the full settlement amount of $55,000 has been funded ….

2. No disbursements are to be made from this interest bearing trust account [in the names of Tyrone Barber and Rose Magno, with Eugene M. Hannon, as the trustee,] absent further Court Order. It is the intent of the parties that upon the establishment of a guardianship or different trust account that the funds deposited to the account contemplated by this Agreement will be transferred and this will be accomplished pursuant to Court Order authorizing said transfer of funds.

3. Attorney Eugene M. Hannon shall act as trustee of said funds and is authorized to open an interest bearing account with Union Bank of California.

Even though respondent prepared and signed the March 2007 stipulation, respondent never opened an interest-bearing trust account in the names of Tyrone Barber and Rose Magno as required under the plain language of the stipulation. Instead, when Barber later gave respondent a $9,166.66 cashier's check sometime around early May 2007, respondent deposited the $9,166.66 check into his client trust account (CTA). And, when Barber thereafter gave respondent a $9,167 cashier's check sometime around early July 2007, respondent again deposited the check into his CTA. Later, sometime between July 1 and July 18, 2007, respondent received another $9,167 from Barber, which respondent also deposited into his CTA.

By July 18, 2007, respondent had received from Barber, as the trustee for both Barber and Magno (jointly), and deposited into respondent's CTA a total of $27,500.66 ($9,166.66 plus $9,167 plus $9,167). Respondent failed to proffer a valid reason for his failure to open a simple interest-bearing trust account in accordance with his fiduciary duties to Barber and Magno under the March 2007 stipulation. Furthermore, by April 1, 2008, however, respondent's CTA was overdrawn by $15.78. In that regard, respondent admits that, between about May 1, 2007, and April 1, 2008, he improperly withdrew and used the $27,500.66 for his own use and benefit.

In a letter dated July 18, 2007, respondent told Attorney Grohs that he had received "three installment payments of $9,167 each from Ty which are being held in my client trust

account until I can get over to the bank to set up the interim interest bearing trust [account] contemplated by [the March 2007 stipulation] … ."

Then, in a letter dated August 20, 2007, respondent again represented to Attorney Grohs that he was "currently holding … three (3) payments/installments on the settlement amount in [his] client trust account." Furthermore, in his August 20, 2007 letter, respondent attempted to justify his failure to open the interest-bearing trust account in Barber's and Magno's names as expressly agreed to do for them in the March 2007 stipulation by asserting that "there is no significant interest available … until the amount exceeds $50,000 … ."

By letter dated July 29, 2008, respondent misrepresented to Attorney Algera Tucker, another attorney who represented Magno, that he was holding the $27, 500.66 in his CTA.

On April 16, 2009, respondent issued CTA check number 1647 payable to the "Law Offices of Eugene M. Hannon PLC General Business Account" in the amount of $3,396.85 against insufficient funds (respondent's CTA had a balance of negative $91.15).

On May 5, 2009, respondent issued CTA check number 1665 payable to D.P. Coatings, Inc., a client in an unrelated matter, in the amount of $771.90 against insufficient funds (respondent's CTA had a balance of negative $768.05).

And, on April 8, 2010, respondent issued CTA check number 1715 payable to the "Law Office of Eugene M. Hannon PLC General Business Account" in the amount of $2,750 against insufficient funds (respondent's CTA had a balance of negative $257.29). Even though respondent's bank paid each of the these insufficiently funded checks, they each resulted in respondent's CTA being further overdrawn.

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Conclusions of Law

Count One: Moral Turpitude (§ 6106)

In count one, the State Bar charges respondent with willfully violating section 6106, which proscribes acts involving moral turpitude, dishonesty, or corruption, by misappropriating for his own use and benefit the $27,500.66 that he held in trust jointly for Barber and Magno. Respondent admits that his conduct in misappropriating the $27,500.66 from Barber and Magno was wrong and involved moral turpitude. The court agrees and further finds that respondent's misappropriation of the $27,500.66 also involved dishonesty.

Respondent testified that he did not deliberately misappropriate the funds and that he did not become aware that the funds were not in his CTA until sometime in 2010 after he had bowel surgery and became sober. However, after having carefully observing respondent's demeanor while testifying and after carefully considering the character of his testimony in light of the record as a whole, the court finds that respondent's testimony lacks credibility. The court's adverse credibility determination is supported by the fact that, beginning in 2008, respondent's CTA was over drawn on at least four occasions. As noted *ante,* respondent's CTA was overdrawn by $15.78 by April 1, 2008, and respondent thereafter issued three CTA checks totaling $6,918.75 ($3,396.85 plus $771.90 plus $2,750) against insufficient funds, each of which caused respondent's CTA to be overdrawn. This suggests that respondent's denial of knowledge is also unbelievable (i.e., implausible).

Moreover, respondent's handling and record keeping of trust funds was, at best, reckless. One culpable of such recklessness in the handling and record keeping of client/trust funds may not assert ignorance or lack of knowledge as a defense or mitigating circumstance. To conclude otherwise would be to reward an attorney for recklessly failing to fulfill his or her most basic and fundamental fiduciary duties. In fact, the failure to keep accurate trust account records " 'is in

itself a [highly] suspicious circumstance.' " (*Clark v. State Bar* (1952) 39 Cal.3d 161, 174; see also *In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, 521-522.)

Moreover, the court rejects for want of credibility respondent's testimony to the effect that Barber authorized respondent to withdraw and apply the $27,500.66 to attorney's fees that Barber owed to respondent. Even assuming arguendo that Barber authorized respondent to withdraw and apply all or part of the $27,500.66 to outstanding attorney's fees owed by Barber, respondent could not properly do so without Magno's consent and approval. Without question, respondent owed Magno a fiduciary duty to maintain the $27,500.66 in an interest-bearing trust account in the names of Barber and Magno pending further court order (or, at least, a further agreement by Magno and Barber). (*Guzzetta v. State Bar* (1987) 43 Cal.3d 962, 330.) And respondent's contentions to the contrary are frivolous.

Finally, even assuming arguendo that respondent did not deliberately misappropriate the $27,500.66 and even assuming arguendo that respondent did not become aware that the funds were not in his CTA until sometime in 2010, respondent's misappropriation of the $27,500.66 would have clearly been the result of respondent's gross carelessness and recklessness in handling and accounting for client and other trust funds and, therefore, still involve moral turpitude. In other words, even if no dishonesty or deliberate wrongdoing was involved in respondent's misappropriation of the $27,500.66, the misappropriation would still involve moral turpitude because it would have been the results of respondent's gross carelessness and recklessness with respect to his non-delegable fiduciary duty to properly handle and account for client/trust funds. (*Lipson v. State Bar* (1991) 53 Cal.3d 1010, 1020-1021; see also *Simmons v. State Bar* (1970) 2 Cal.3d 719, 729 [an attorney's gross carelessness and negligence in performing fiduciary duties involves moral turpitude even in the absence of evil intent].)

Count Two: Violation of Court Order (§ 6103)

In count two, the State Bar charges that respondent willfully violated section 6103, which provides that an attorney's willful "disobedience or violation of an order of the court requiring him to do or forbear an act connected with or in the course of his profession, which he ought in good faith to do or forbear, . . . [constitutes a cause] for disbarment or suspension." Specifically, the State Bar charges that respondent violated section 6103 by never opening an interest-bearing trust account in the names of Barber and Magno and by using the $27,500.66 for his own use and benefit.

To establish such a section 6103 violation, however, the State Bar must establish, by clear and convincing evidence, that there was "a final, binding court order" of which respondent had actual knowledge and that respondent deliberately failed to obey it. (*In the Matter of Maloney and Virsik* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774, 787-788; accord, *In the Matter of Respondent X* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 592, 604-605). The State Bar failed to establish that the superior court's April 18, 2007 order approving the March 2007 stipulation was a final and binding court order. (See exhibit B, p. 2.)

As noted *ante*, Barber and Magno settled and the superior court dismissed with prejudice *Rose Magno v. Tyrone Barber*, case number RG 04149292, more than two years before respondent, Barber, Magno, and Attorney Grohs signed the March 2007 stipulation and before the superior court issued its April 18, 2007 order approving that stipulation. Therefore, it is clear that the superior court was without jurisdiction to enter its April 18, 2007 order unless, when it dismissed case number RG 04149292 in December 2004, it retained jurisdiction to enforce the Magno and Barber's settlement of that case in accordance with Code of Civil Procedure section 664.6. (*Hagan Engineering v. Mills* (2003) 115 Cal.App.4th 1004, 1007-1008.) The State Bar failed to prove, by clear and convincing evidence, that, in December 2004, the superior court

properly reserved jurisdiction under Code of Civil Procedure section 664.6 at Magno and Barber's express request. Accordingly, the State Bar failed to establish that the superior court's April 18, 2007 order was a final and binding court order, and count two is DISMISSED with prejudice for want of proof.

Of course, even if the superior court's April 18, 2007 order approving the March 2007 stipulation is void or otherwise not a final and binding court order, respondent is still bound by the March 2007 stipulation because it is still an enforceable contract, which is governed by general contract principles (*Nicholson v. Barab* (1991) 233 Cal.App.3d 1671, 1681).

Count Three: Moral Turpitude (§ 6106)

In count three, the State Bar charges that respondent willfully violated section 6106 by misrepresenting in his July 29, 2008 letter to Attorney Tucker that the $27,500.66 was in his CTA. As noted *ante*, the court rejects respondent's testimony to the effect that, at the time he wrote his April 18, 2008 letter, he honestly believed that the $27,500.66 was in his CTA. What is more, even assuming that respondent did not deliberately make this false representation to Magno's attorney, respondent made the false representation with reckless disregard of its falsity. As noted *ante*, respondent was Magno's fiduciary with respect to the $27,500.66. Thus, recklessly making a false statement of fact to Attorney Tucker (i.e., Magno's attorney) regarding his handling of and accounting for the $27,500.66 alone involves moral turpitude. In short, the record clearly establishes the misconduct charged in count three.

Count Four: Moral Turpitude (§ 6106)

In count four, the State Bar charges that respondent willfully violated section 6106 by issuing the three CTA checks totaling $6,918.75 ($3,396.85 plus $771.90 plus $2,750) against insufficient funds between April 16, 2009, and April 8, 2010. Even if respondent did not deliberately issue the three checks against insufficient funds in his CTA, his conduct was

reckless at best and thus still involved moral turpitude. (*Lipson v. State Bar, supra*, 53 Cal.3d at pp. 1020-1021.) In short, the record clearly establishes the misconduct charged in count four.

Count Five: Moral Turpitude (§6106)

In count five, the State Bar charges that respondent willfully violated section 6106 by allowing the balance of his CTA to fall below $771.90 to a negative $768.05 on about May 5, 2009, when respondent issued CTA check number 1665 in the amount of $771.90 to his client D.P. Coatings, Inc.

"The mere fact that the balance in an attorney's trust account has fallen below the total of amounts deposited in and purportedly held in trust, supports a conclusion of misappropriation." (*Giovanazzi v. State Bar* (1980) 28 Cal.3d 465, 474; accord, *Edwards v. State Bar* (1990) 52 Cal.3d 28, 37; *Palomo v. State Bar* (1984) 36 Cal.3d 785, 795.) And respondent failed to establish otherwise. (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619.) Thus, the record clearly establishes the misconduct charged in count five.

Aggravation[2]

The record establishes four factors in aggravation by clear and convincing evidence. (Std. 1.2(b).)

Multiple Acts of Misconduct

Respondent's misconduct evidences multiple acts of misconduct. (Std. 1.2(b)(ii).)

Significant Harm

Respondent's misconduct caused significant harm to Barber and Magno because respondent has deprived them of $27,500.66 for five years since 2007. (Std. 1.2(b)(iv).) In addition, Magno has had to file a lawsuit against respondent and to incur legal fees in an attempt

[2] All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

to recover the $27,500.66 that respondent misappropriated. And respondent continues to defend against that lawsuit even though respondent has admitted to never opening and depositing the $27,500.66 into an interest-bearing trust account in the names of Barber and Magno as he agreed to do and to misappropriating the $27,500.66 for his own use and benefit.

Indifference

Respondent has failed to make any restitution for the $27,500.66 that he willfully misappropriated. Respondent's failure to make any restitution whatsoever clearly demonstrates indifference towards rectification for the consequences of his serious misconduct. (Std. 1.2(b)(v).) It also suggests that he fails to appreciate the wrongfulness of his conduct.

Lack of Appreciation

Respondent's meritless contention that he did not deliberately misappropriate the $27,500.66 because Barber authorized him to withdraw and apply the $27,500.66 to Barber's outstanding attorney's fees establishes that respondent fails to appreciate or understand the basic duties that an attorney owes as a fiduciary and that respondent lacks insight into the wrongfulness of his conduct. These failures are particularly aggravating because they strongly suggest that misconduct will reoccur. (*In the Matter of Davis* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576, 595.)

Mitigation

No Prior Record

Respondent has no prior record of discipline. Even though respondent's misconduct is very serious, his 28 years of misconduct-free practice from 1979 through 2007 is a very significant mitigating circumstance. (Std. 1.2(e)(i); *In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn. 13.)

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Cooperation with State Bar

Respondent is also entitled to significant mitigation for entering into the extensive partial stipulation of facts with the State Bar. (Std. 1.2(e)(v).)

Good Character & Community Service

Respondent demonstrated good character by the attestation of a wide range of references in the legal community and general community. (Std. 1.2(b)(vi).) Respondent produced good character testimony from 9 witnesses (five attorneys, a client, his best friend, his wife, and his brother). Many of them have known respondent for a long time and were aware of his misconduct. They credibly testified that respondent is trustworthy and honest and they opined that respondent's misconduct was out of character for respondent.

Respondent performed community work in the Contra Costa Legal Services Foundation from 1996 to 2003, through their "Ask a Lawyer" Program. He has also performed pro bono work for clients.

Moreover, respondent's good character is evidenced by his being a *heavily* decorated Vietnam War Veteran, having served from 1966 though 1969.

In sum, respondent is entitled to very substantial mitigating credit for his good character and community service.

Emotional and Physical Difficulties

Respondent also had brain tumor surgery and temporary total hearing loss in 2001. The brain tumor surgery left respondent suffering from dizziness, headaches, ear aches, and vertigo.

Respondent also suffered from stress related to his having to take care of his elderly parents from about 2003. His father died in 2005, and he took care of his mother until 2007. Respondent also suffered from stress related to his having to take care of his step-daughter's grandchildren, having to provide financial assistance to his two grown sons, and having a house

fire in 2009. Respondent opines that this stress was a contributing cause of his misconduct. Respondent is entitled to mitigation for this stress.

In 2010, respondent had intestinal blockage/bowel surgery. In 2010, respondent was also diagnosed as suffering from depression and post-traumatic stress disorder (PTSD). In addition, respondent admits that he is an alcoholic and opines that his depression, PTSD, and excessive drinking of alcohol were contributing causes of his misconduct. However, even assuming that to be the case, respondent has not sufficiently recovered from his depression, PTSD, or addiction to alcohol to warrant more than limited mitigation for these conditions under standard 1.2(e)(iv).

Discussion

In determining the appropriate level of discipline, the court looks first to the standards for guidance. (*Drociak v. State Ba*r (1991) 52 Cal.3d 1095, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) Second, the court looks to decisional law for guidance. (*Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Taylo*r (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 580.)

Standard 1.6(a) provides that, when two or more acts of misconduct are found in a single disciplinary proceeding and different sanctions are prescribed for those acts, the recommended sanction is to be the most severe of the different sanctions. In the present proceeding, the most severe sanction for respondent 's misconduct is found in standard 2.2(a), which applies to respondent's deliberate misappropriation of $28,268.71 ($27,500.66 plus $768.05) in two client matters in willful violation of section 6106. Standard 2.2(a) provides:

> Culpability of a member of wilful misappropriation of entrusted funds or property shall result in disbarment. Only if the amount of funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed. In those latter cases, the discipline shall not be less than a one-year actual suspension, irrespective of mitigating circumstances.

Of course, not every misappropriation that is technically willful is equally culpable. (*Lawhorn v. State Bar* (1987) 43 Cal.3d 1357, 1367.) In fact, the Supreme Court has differentiated between willful misappropriations unaccompanied by acts of deceit or other aggravating factors and misappropriations accompanied by acts of deceit or with an intent to deprive or steal. (*Edwards v. State Bar, supra*, 52 Cal.3d at p. 38.) Specifically, the Supreme Court has held that even though disbarment is the usual form of discipline for willful misappropriation, it "would rarely, if ever, be an appropriate discipline for an attorney whose only misconduct was a single act of negligent misappropriation, unaccompanied by acts of deceit or other aggravating factors." (*Ibid*.)

Nonetheless, it remain clear that "misappropriation of client funds is a grievous breach of an attorney's ethical responsibility, and generally warrants disbarment unless the most compelling mitigating circumstances clearly predominate. [Citations.]" (*In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 518.) This is true even in cases involving an isolated instance of misappropriation by an attorney who has no prior record of discipline. (E.g., *Chang v. State Bar* (1989) 49 Cal.3d 114, 128-129; *Kaplan v. State Bar* (1991) 52 Cal.3d 1067, 1071-1073.) In addition, "discipline of less than disbarment is warranted only where extenuating circumstances show that the misappropriation of entrusted funds is an isolated event." (*In the Matter of Freydl* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349, 361.)

Undoubtedly, there are numerous *significant* mitigating circumstances in the present case. However, as numerous and significant as they are, the mitigating circumstances do not rise to the level of "the most compelling mitigating circumstances" under standard 2.2(a). Furthermore, in light of the serious four aggravating circumstances found *ante*, the mitigating circumstances do not "clearly predominate" as required to justify discipline of less than disbarment under standard 2.2(a).

The record does not contain evidence of extenuating circumstances showing that respondent's misappropriations were "isolated events." First, the misappropriations were accompanied by other misconduct (i.e., prolonged reckless handling of and accounting for client/trust funds; misrepresenting to Attorney Tucker that he held the $27,500.66 in his CTA; issuing three insufficiently funded checks drawn on his CTA). Second, respondent's misappropriation of $27,500.66 from Barber and Magno occurred over a period of almost a year from about May 1, 2007, through April 1, 2008, and respondent's misappropriation of $768.05 from D.P. Coatings, Inc. occurred more than a year later in May 2009. Third, both of the misappropriations occurred after respondent had already taken and completed the State Bar's Client Trust Accounting School.[3]

In sum, the record fails to establish a compelling reason that justifies a departure from the disbarment recommendation provided for in standard 2.2(a). (*In re Silverton* (2005) 36 Cal.4th 81, 91; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.) Other factors also support recommending respondent's disbarment under standard 2.2(a). For example, even at this late date, respondent has not repaid a single dollar of $27,500.66 that he admits he misappropriated. Finally, the court independently concludes that respondent should be ordered to make restitution with interest for the $27,500.66 that he misappropriated jointly from Barber and Magno.

Recommendations

Discipline

The court recommends that respondent EUGENE MARTIN HANNON, State Bar Number 85632, be disbarred from the practice of law in California and that his name be stricken

[3] It is unclear how respondent was able to take the State Bar's Client Trust Accounting School. That school, just like the State Bar's Ethics School) is a rehabilitative course available only to attorneys who have been required to take it under a State Bar Court or the Supreme Court disciplinary order or who have agreed to take it in a State Bar "agreement in lieu of discipline" under section 6092.5, subdivision (i).

from the Roll of Attorneys of all persons admitted to practice in this state. The court further recommends that EUGENE MARTIN HANNON be ordered to make restitution jointly to Tyrone Barber and to Rose Magno in the amount of $27,500.66 plus 10 percent interest per annum from July 18, 2007 (or to the Client Security Fund to the extent of any payment from the fund to Tyrone Barber or Rose Magno, plus interest and costs in accordance with Business and Professions Code section 6140.5). Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

California Rules of Court, Rule 9.20

The court further recommends that EUGENE MARTIN HANNON be ordered to comply with the requirements of California Rules of Court, rule 9.20 and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding.

Costs

Finally, the court recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that the costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Order of Involuntary Inactive Enrollment

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that EUGENE MARTIN HANNON be involuntarily enrolled as an inactive member

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of the State Bar of California effective three calendar days after the service of this decision and order by mail. (Rules Proc. of State Bar, rule 5.111(D).)

Dated: July ___, 2012.

LUCY ARMENDARIZ
Judge of the State Bar Court